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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/313,278	05/18/1999	DAVID M. GOLDENBERG	018733/916	3688

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EXAMINER
RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
2175	

DATE MAILED: 02/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/313,278	Applicant(s) GOLDENBERG, DAVID M.	
	Examiner Sam Rimell	Art Unit 2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27 and 29-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27, 29-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Claims 1-27 and 30-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 14, 30, and 33, the phrase "respond to said user at a more detailed level" is vague and indefinite since it is not clear what kinds of responses are being made and what exactly constitutes "more detailed".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-17, 19-24 and 29-30 and 37-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Douglas et al. ('688).

Douglas et al. discloses a processing device which is configured to provide multiple levels of service to a user. At a first level of service, a user can perform research on the system website and download data and research articles containing medical information (col. 14, lines 54-57 and col. 16 lines 21-38). At a second level of service, the user can interact with a group therapist using on-line teleconferencing capabilities (col. 12, lines 8-22). At a third level of service, a user can be monitored for alarm conditions, and upon triggering of the alarm conditions, can be placed into electronic contact with the physician (col. 10, lines 17-31). The electronic contact with the physician can separately be defined as a fourth level of service, since it permits direct interaction between the patient and the physician, which is distinct from the

indirect interaction afforded by electronic monitoring at the third level of service. Any movement through the levels may be said to constitute sequential access, given that none of the claims define the exact sequence that must be followed.

The processing device can use the alarm feature to distinguish between a need for additional information and a need for contact with a physician (col. 10, lines 17-31).

The system involves the interaction of a patient with at least two medical professionals: A medical doctor and a group therapist who monitors the on-line group therapy sessions.

The processing device receives an image of the patient and transmits to others during the group therapy sessions.

The patients who interact with the system have access to libraries of research studies (col. 16 line 34).

The patients who interact with the system receive medical treatment in the form of group psychotherapy.

The processing device monitors the status and progress of the patient by use of a journal function (FIG. 12).

The processing device has a weighing function in the form of a programmed alarm system, which weighs responses from a user and decides whether those responses are compliant or non-compliant with desired pre-set goals (col. 10 lines 17-31).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 18 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Douglas et al. ('688).

The system of Douglas et al. ('688) allows a user to access a physician but does not specifically allow a user to select from a listing of different physicians. Examiner takes Official Notice that it is well known in the art of insurance plans to produce listings of approved physicians and provide this information in various media, such as in booklets, telephonic referral services and on-line via a network. It would have been obvious to one of ordinary skill in the art to modify Douglas et al. to utilize a physician referral service, either on-line, or by providing phone number so as to permit telephonic access to such data, as is well known in the art to permit patient access to insurance approved physicians.

Claims 14, 20, 25-27, 30 and 32-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown ('563).

Brown ('563) discloses a system that allows a patient to interact with a physician via a wide area network or the Internet. The system has a first level of service where the system can direct a series of questions to the patient (FIG. 16) or, on a second level, receive measured data such as blood glucose level, blood pressure, pulse and temperature(col. 11, line 28 and col. 11, lines 52-57).

Remarks

Applicant's argues that the claim amendments are base upon discussions of claims 1 and 38 made during the interview of 9/16/02. No agreements were reached during this interview.

Applicant has amended claims 1, 14, 30 and 33 to define first and second levels as well as a response to the user "at a more detailed level". Examiner maintains that both Douglas et al.

and Brown have distinct levels and define distinct types of user interactions at each level. However, the step of responding to the user "at a more detailed level" is too ambiguous. It is noted that in both Douglas et al. and Brown et al., the different levels make different demands on the user. For example, in Douglas et al., one level might information in nature, while another level might allow for invasive user monitoring. Similarly in Brown, one level involves the collection of text answers while another involves invasive user monitoring.

Claim 38 has been further amended to define "sequential access", but it is not clear what sequence of levels is supposed to be followed.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

Sam Rimell
Primary Examiner
Art Unit 2166